

REPLY UNDER 37 CFR 1.116
EXPEDITED PROCEDURE
TECHNOLOGY CENTER 3735

Remarks

Request for Continued Examination

A Request for Continued Examination (RCE) and requisite fee have been submitted along with this Response. Since the Office Action was made final, the RCE was filed so that the Examiner would consider additional references cited in the attached Information Disclosure Statement (IDS) as well as enter and consider the amendments and remarks of the present Response.

Extension of Time

A request for a two-month extension of time along with the requisite fee have been enclosed with this Response.

Status of All of the Claims

Below is the status of the claims in this application.

1. Claim(s) pending: claims 25-50.
2. Claim(s) cancelled: claims 1-24.
3. Claim(s) added: claims 48-50.
4. Claims withdrawn from consideration but not canceled: none.

Interview Summary

The Applicant's representative first wishes to thank Examiner Toth and Examiner Marmor for the personal interview of February 3, 2011 concerning the above-identified application. At the interview, proposed claim amendments similar to the amendments made above were presented. It should be noted that new claims 48-50 correspond to the proposed claims A-C from the interview. At the interview, the proposed amendment was discussed in view of the cited references, in particular US Patent No. 4,622,974 to Coleman et al. The substantive remarks presented at the interview have been again provided below. It also should be noted that the Henning reference (US 6,014,577) and its Japanese counterpart JP 2000-

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504239 which were mentioned at the interview have been cited in an Information Disclosure Statement filed concurrently with this response.

Independent Claim 25

In item 3 of the Office Action, independent claim 25 was “rejected under 35 USC. 112, second paragraph, as being indefinite.” In item 5 of the Office Action, independent claim 25 was “rejected under 35 U.S.C. 102(b) as being anticipated by Coleman (US 4622974).”

Claim 25 has been amended in the manner as discussed at the interview. Specifically, the location of the layer of the test field as well as the specific positioning of the test field by the light-conducting element have now been specified in claim 25. In particular, claim 25 now recites “wherein the test field is permanently adhered to form a layer on the distal end” and “a driver configured to move the test field on the distal end of the light-conducting element from a first position where the test field is located inside the lancet to a second position where the test field on the distal end of the light-conducting element protrudes beyond the lancet tip for contacting the sample for reducing dead space issues.” As was discussed at the interview, the Coleman reference does not have a driver that moves a light-conducting element in the manner as now recited and is incapable of doing so. Specifically, looking at FIGS. 2a to 2c of Coleman, the end 34 of the optical fiber 16 is incapable of moving to the recited second position because, among other things, it is blocked by the reflective surface 30. Based on the positive comments from the examiner regarding the interview, it is believed that independent claim 25 and its dependent claims are in condition for allowance.

Independent Claim 28

Claim 28 was objected to in item 1 of the Office Action for an informality of a typographical nature. The claim has been amended to address this issue. In item 5 of the Office Action, independent claim 28 was “rejected under 35 U.S.C. 102(b) as being anticipated by Coleman (US 4622974).” Claim 28 has been amended in the manner as discussed at the interview. Specifically, the location of the layer of the test field as well as the specific positioning of the test field by the light-conducting element have now been specified in claim 28. In particular, claim 28 now recites “wherein the test field is permanently adhered to form a layer

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on the distal end" and "a driver configured to move the test field on the distal end of the light-conducting element from a first position where the test field is located inside the lancet to a second position where the test field on the distal end of the light-conducting element protrudes beyond the lancet tip for contacting the sample for reducing dead space issues." As was discussed at the interview, the Coleman reference does not have a driver that moves a light-conducting element in the manner as now recited and is incapable of doing so. Based on the positive comments from the examiner regarding the interview, it is believed that independent claim 28 and its dependent claims are in condition for allowance.

Conclusion

It should be understood that the above remarks are not intended to provide an exhaustive basis for patentability or concede the basis for the rejections in the Office Action, but are simply provided to overcome the rejections made in the Office Action in the most expedient fashion.

In view of the above amendments and remarks, it is submitted that the present application is now in condition for allowance, and the Examiner is requested to pass the case to issue. If the Examiner should have any comments or suggestions to help speed the prosecution of this application, the Examiner is requested to contact the undersigned representative by telephone.

Respectfully submitted,

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